

PT 99-44

Tax Type: PROPERTY TAX

Issue: Charitable Ownership/Use

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS**

**ILLINOIS MASONIC
MEDICAL CENTER,
APPLICANT**

v.

**STATE OF ILLINOIS
DEPARTMENT OF REVENUE**

**Docket No: 98-PT-0111
(95-16-1022)**

**Real Estate Exemption
for 1995 Tax Year**

P.I.N.: 14-29-214-004

**Alan I. Marcus
Administrative Law Judge**

**RECOMMENDATION FOR DISPOSITION
PURSUANT TO APPLICANT'S MOTION FOR SUMMARY JUDGEMENT**

APPEARANCE: Mr. George Michael Keane, Jr. of Keane and Keane on behalf of the Illinois Masonic Medical Center.

SYNOPSIS: This matter comes to be considered pursuant to Illinois Masonic Medical Center's (hereinafter the "applicant") timely motion for summary judgement. Applicant filed its motion after the Illinois Department of Revenue (hereinafter the "Department") issued a determination in this matter on October 16, 1998. This determination found that:

- 59% of the improvement located on real estate identified by Cook County Parcel Index No. 14-29-214-004 (hereinafter the "office building"), and a corresponding percentage of its underlying ground qualified for exemption from 1995 real

estate taxes under Section 15-65 of the Property Tax Code,¹ 35
ILCS 200/1-3 *et seq* (hereinafter the "Code");

- 100% of the parking garage located on real estate identified by Cook County Parcel Index No. 14-29-214-004 (hereinafter the "parking garage" or the "garage") and a corresponding percentage of its underlying land did not qualify for exemption from 1995 real estate taxes under Section 15-125² of the Code.

The underlying controversy arises as follows:

Applicant filed a real estate exemption complaint with the Cook County Board of Tax Appeals (hereinafter the "Board") on May 10, 1996. This application sought to exempt the office building and garage from 1995 real estate taxes, respectively under Sections 15-65 and 15-125 of

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1. Section 15-65 states, in relevant part, that:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity.

35 **ILCS 200/15-65.**

2. Section 15-125 states that:

Parking areas, not leased or used for profit, when used as part of a use for which an exemption is provided by this Code and owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption, are exempt [from real estate taxation].

35 **ILCS 200/15-125.**

the Code. The Board reviewed this complaint and recommended that 59% of the office building and 32% of the garage be exempt.

The Department issued its determination in this matter on October 16, 1998. This determination accepted the Board's recommendation pertaining to the office building but denied exemption for any portion of the parking lot.

Applicant filed a timely appeal to the Department's determination and then filed this motion for summary judgement, in which it does not contest that portion of the Department's determination regarding the office building and the land thereunder. It does, however, challenge that part of the determination which affects the parking garage. Applicant made oral argument in support of its motion. Following a careful review of the record made at that oral argument, I recommend that applicant's motion for summary judgement be granted.

FINDINGS OF FACT:

1. The Department's jurisdiction over this matter and its position therein are established by the admission into evidence of Dept. Motion Ex. Nos. 1, 2, 3 and 4.
2. The Department's position in this matter is: (1) that 59% of the office building and a corresponding percentage of its underlying ground qualify for exemption from 1995 real estate taxes under Section 15-65 of the Code; but that (2) 100% of the parking garage and a corresponding percentage of its underlying land do not qualify for exemption from such taxes under Section 15-125 of the Code because it was not in exempt use. Dept. Motion Ex. No. 4.
3. The office building and the garage are part of a larger complex that is located on Cook County Parcel Number 14-29-214-004. Applicant acquired its ownership interest therein via a special warrantee deed dated December 17, 1990. Dept. Motion Ex. No. 6.
4. The entire complex is commonly known as 3000 North Halsted Street, Chicago, IL and features applicant's medical center or hospital, (hereinafter the "medical

center"), employee housing for interns, residents, nurses, etc, administrative offices, an MRI facility, a cancer center, a day care center and various parking facilities that are not at issue in this proceeding. *Id.*

5. On December 17, 1990, the Department determined that the medical center itself and certain parking facilities adjacent thereto were exempt from real estate taxation under the then-existing version of Section 15-65 of the Code. *Id.*
6. The Director of Revenue issued a Notice of Decision in Docket No. 94-16-1420 on August 5, 1997. This decision found, in relevant part, that the entire parking garage qualified for exemption from 1994 real estate taxes under Section 15-125 of the Code. *Id.*
7. The Director based this conclusion on evidence establishing that the parking garage was under construction throughout most of the 1994 assessment year but then opened for uses connected with the medical center in October of 1994. *Id.*
8. The parking garage contained 437 spaces during 1995. Its usage was apportioned between the following classes:

User Class	Number of Weekday Users In Each Class (Mondays-Fridays)	%		Number of Weekend Users In Each Class (Saturdays Only)³	%
Hospital Employees (Full & Part Time Combined)	263	60%		251	54%
Hospital Patients	166	38%		149	32%
Patient Visitors	71	2%		63	14%
Total Users	500			463	

Applicant Motion Ex. Nos. 3A, 3B.

9. None of the 437 spaces were leased to private individuals. Nor were they leased to any of the doctors whose private practices were located in non-exempt portions of the office building. Applicant Motion Ex. No. 2A, 3A, 3B; Tr. pp. 12-13.

3. The chart only shows Saturday usage because the parking garage was closed on Sundays. Applicant Motion Ex. No. 3A.

10. Hospital employees, including the doctors and their support personnel, could obtain monthly parking in the garage if they paid for it. However, applicant did not reserve specific parking spaces for any of its employees. Applicant Motion Ex. No. 2A, 3B.
11. Anyone who parked in the garage was assessed a user fee, which applicant assessed due to a general shortage of parking on the medical center campus. Applicant Motion Ex. Nos. 2A, 2B; Tr. pp. 20-21.
12. Applicant also assessed the fee in order to discourage non-hospital related use of campus parking facilities. *Id.*
13. Applicant applied all user fee income⁴ to defray actual operating expenses associated with the garage. Applicant Motion Ex. No 2B; Tr. p. 14.

CONCLUSIONS OF LAW:

Summary judgment is appropriate where there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. 735 ILCS 5/2-1005(c). In this case, applicant is not contesting that portion of the Department's determination which pertains to the office building. (Tr. pp. 5-6). Applicant is, however, challenging that portion of the Department's determination which affects the parking garage.

Parking areas are subject to exemption under Section 15-125 of the Property Tax Code provided that said areas are: (1) not leased or otherwise used for profit; and (2) used as part of a use for which an exemption is provided by this Code; and (3) owned by any school district, non-profit hospital, or religious or charitable institutions which meets the qualifications for exemption. 35 ILCS 200/15-125.

4. User fees were applicant's sole source of income with respect to the parking garage. Applicant Motion Ex. No. 2B.

In this case, the Department has implicitly decided that applicant satisfies the statutory ownership requirement by basing its denial strictly on lack of exempt use. Applicant has not challenged the Department's finding with respect to ownership herein. Accordingly, I shall leave same undisturbed and limit any remaining analysis to the use issue.

The Director of Revenue previously determined that the parking garage was entitled to exemption from 1994 real estate taxes under Section 15-125 because the garage was being developed for hospital-related uses. *See*, Docket No. 94-16-1420. Moreover, the evidence applicant presented in support of its motion establishes the following uncontroverted facts: (1) the hospital serviced by the parking garage was tax-exempt during the 1995 assessment year; (2) usage of the parking garage was limited to hospital employees and others pursuing hospital-related business during 1995; (3) applicant charged user fees to all persons using the garage; (4) applicant applied all user fee income to defray costs associated with operating the parking garage.

Based on the above considerations, I conclude that there are no genuine issues of material fact as to the parking garage. I further conclude that, pursuant to Northwestern Memorial Foundation v. Johnson, 141 Ill. App.3d 309 (1st Dist. 1986) (hereinafter "Johnson"), applicant is entitled to judgement as a matter of law.

In Johnson, the court employed the following reasoning to hold in favor of exempting a parking lot which, like applicant, charged user fees:

The evidence shows that the property was purchased for development into a parking lot for use by employees of [appellee] Northwestern, a tax-exempt, not-for profit institution. Construction began immediately to accomplish this purpose, and the lot has been exclusively in this manner since its completion in January of 1983. Although a monthly fee of \$45 is charged to the employees, Northwestern has stated that this charge is used to defray the costs of maintaining the lot. More importantly, there is no evidence that the parking lot is being leased or used for profit. Additionally, notwithstanding the fact that Northwestern did operate for many years without this parking lot, the use of the property need not be absolutely indispensable for carrying out the purposes of the hospital. [Citation omitted]. Moreover, this court takes judicial notice of the fact that the hospital complex is located in a densely populated urban area which necessitates the need for adequate employee parking. Hence, we believe Northwestern's use of this property is primarily for purposes reasonably necessary to accomplish the efficient administration of the hospital within the spirit and letter of the Act. [Citation omitted].

Johnson, *supra*, at 313.

The uncontroverted facts herein are substantially the same, if not identical, to those in Johnson. Consequently, principles of *stare decisis* support the conclusion that the parking garage qualifies for exemption from 1995 real estate taxes under Section 15-125 of the Property Tax Code as a matter of law. For this reason, and because applicant is not contesting any other portion of the Department's determination, I recommend that applicant's motion for summary judgement be granted.

WHEREFORE, for all the aforementioned reasons, it is my recommendation that 59% of the office building located on real estate identified by Cook County Parcel Number 14-29-214-004 and an equivalent percentage of its underlying ground should be exempt from 1995 real estate taxes. It is further recommended that 100% of the garage located on real estate identified by Cook County Parcel Number 14-29-214-004 and an equivalent percentage of its underlying ground also be exempt from 1995 real estate taxes.

Date

Alan I. Marcus
Administrative Law Judge